



In the United States Patent and Trademark office

In Re application of:) Date: March 13, 2006
Carlos Daniel Jaffe) Group art unit: 3732
Serial number 10/632,505) Examiner: Candice Capri Stokes
Filed: 08/04/2003)
For: All-in-one prophy angle)

Honorable Commissioner of Patents and Trademarks

Dear Sir:

In response to the communication from the examiner, dated February 27, 2006.

The following is the communication from the examiner:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made. Claims 1-3,8-12,17-21, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chipian et al (USPN 5,642,994). Chipian et al disclose a prophy angle comprising a prophy handpiece 105 with a driveshaft 140 with a first end with projections 210 and a second end attached to a prophy cup 110 with a longitudinal axial direction, a rear end and a front end, an inside and outside. With further regard to Claim 1, Chipian et al disclose "the present invention is a combination of the headpiece 100 described in Figs. 2A, 2B, and 2C and fluid agent storage container 300 shown in a preferred embodiment in Figs. 3A and 3B. The storage container 300 is the simplest of all the storage containers to be disclosed herein. The container 300 is a flexible bladder, similar in function and form to a tube of toothpaste, except a dispensing orifice 310 is offset from the center of an end cap 320 (see Fig. 3B)" (col. 6, lines 35-42). "The orifice 310 is designed to fit snugly into the interference tapered container port 250 of the headpiece 100, and still allow a fluid agent to flow out of the container 300 and into the port 250" (col. 6, lines 47-50). Further Chipian et al teach "To dispense the fluid agent, the headpiece 100 is secured to the dental instrument handpiece 105. The dispensing orifice 310 of a fluid agent filled bladder 330 slides into the interference tapered container port" (col. 6, lines 62-65). "A fingertip or thumb presses from the sealed end 350 of the bladder 330, thereby forcing a fluid agent out of the bladder 330 and into the headpiece lumen 230, through the cup shaft 170 and into the prophy cup 110" (col. 7, lines 2-5). Chipian et al fail to disclose or reasonably teach the prophy cup 110 having an elastomeric material, however, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the prophy cup of an elastomeric material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *in re Leshin*, 125 USPQ 416. Further, the drive shaft disclosed by Chipian et al is manually driven but it would have been obvious design choice to make it electrically driven. As to Claims 2,11, and 20 Chipian et al teaches a prophy cup having a front end with a skirt as shown in Fig. 1A and explain "Fig. 1A is a perspective view of the simple system that the inventors believe is probably the most similar in appearance to the present invention" (col. 4, lines 53-56). Regarding Claims 3,12, and 21 Fig. 2A shows prophy cup 110 having a narrowing annular retaining lip at the bottom portion of cup 110. With regards to Claims 7,16, and 25 there is no further structural characteristics provided in these claims and the prophy cup disclosed by Chipian et al is capable of performing in the same manner as the claimed invention. Referring to Claims 9,18 and 27 Chipian et al disclose, "it may be advantageous to permanently embed the abrasive agent in the prophy cup material as shown in Fig. 11" (col. 7, lines 40-42). Chipian et al also teaches the invention as stated in Claim 8,10,17 and 26 however they do not teach the claimed ranges. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a prophy angle as stated in these claims with the specified ranges, since it has been held that where the general conditions of a claim are disclosed in the prior art,